

The complaint

Mr H is unhappy that Zurich Assurance Limited declined a claim made for the total permanent disability benefit - own occupation - ('the benefit') made on his level protection plan ('the policy') and sought to remove the benefit under the policy retrospectively.

He's also unhappy that Zurich Assurance Limited reneged on its offer to cancel the policy in its entirety and reimburse him the total premiums he'd been paying for the policy since it started in 2013 – around £69,000.

What happened

I issued my provisional decision in January 2026, explaining why I was intending to depart from the conclusions of our investigator and partially uphold this complaint.

An extract of my provisional decision is set out below:

.....

Given that Mr H applied for the policy in January 2013 (and it started on 1 March 2013), I'm satisfied that the relevant law at the time was the Marine Insurance Act 1906.

That means that Mr H (and any independent third party acting on his behalf) had a duty of utmost faith. This effectively placed a high duty on Mr H as a consumer to disclose all material information which he knew or ought to have known would be relevant to Zurich as the insurer.

Although, The Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA') was not in force at the time (it came into force in April 2013) – and so isn't relevant law – I'm satisfied it would still be fair and reasonable for me to take into account the principles of CIDRA as they amounted to good industry practice at the time.

Zurich's decision to retrospectively remove the benefit and decline the claim for the Benefit

The completed application form reflects that Mr H was asked many questions including about his occupation and his duties. I've set out the questions and answers given, relevant to this complaint.

Question: What is your main occupation?

Answer: Company Director.

Mr H was then asked:

Please state the percentage of time you spend performing the following duties.

A number of duties are then listed and it's reflected that Mr H gave the following

percentages:

Administration, clerical, managerial: 100

Skilled technical, light manual, supervisory in factories or shop floor: 0

Sales, shop or office based, sales manager, sales representative or assistant: 0

Manual skilled, light unskilled or factory work including light lifting: 0

Manual unskilled including heavy lifting: 0

Mr H was also sent an application summary enclosed with Zurich's letter dated 12 January 2013. It contains a declaration which says:

Important

Please read the following declaration carefully. sign and date it in the space provided and return it to us in the enclosed prepaid envelope.

You are responsible for disclosing all material facts about your health, age, occupation, travel and pursuits to us. You need to tell us in writing if there is any change, right up until the date we accept the application – the date we issue the plan. Failure to disclose any material facts to us may result in the cancellation of the plan or any claim being declined.

If you are in any doubt about a fact being material. please ask us or give us the information and let us decide.

1. I declare that the answers provided and any additional information given are true and complete...

2. I understand that if the information or statements I have given are not true, or changes in such facts are not notified to Zurich, the plan may become void or cancelled by Zurich, in which case no cover or other benefits will be provided.

3. I agree that the information and statements in this document, the application form and any other relevant statements made, or to be made by me, form part of the basis of the plan. This means that if they are found to be not true, Zurich can cancel the plan at any time.

The covering letter asks Mr H to check the information and to let Zurich know if anything is incorrect or has changed. It also explains the consequences of incorrect information being provided in the application.

I've not seen anything to convince me that Mr H did notify Zurich of any changes he wanted to make to the occupation section of the application at the time.

Zurich says that based on the duties Mr H has more recently explained he did around the time of applying for the policy, his occupation was more in keeping with a site foreman in the building industry. So, that's the main occupation he should've declared.

However, it isn't disputed that Mr H was a company director. I'm therefore satisfied that he reasonably answered the question about his main occupation as being a company director. Zurich also says that Mr H should've said, when applying for the policy, that he spent a

percentage of time performing “manual skilled, light unskilled work” and “manual unskilled including heavy lifting”.

Whether Mr H provided incorrect percentages when applying for the policy is more finely balanced in my view. Having carefully considered the occupational questionnaire completed by Mr H in 2024, and recordings of subsequent calls he had with Zurich’s representative, I’m persuaded that Zurich has reasonably concluded that around time of the application, he didn’t spend 100% of his time doing administration, clerical and managerial duties. And some of his duties involved light manual work and also, heavy lifting.

I appreciate that Mr H spent a lot of time carrying out supervisory work, and that may reasonably form part of his overall managerial duties. During one of the calls, Mr H does say “I run a construction company. That’s what’s I’ve always done”.

However, he and his wife also say during the calls I’ve listened to that:

- he’s done the same job for over 30 years (which covers the time from when the policy was applied for). It hasn’t changed at all. He does “every single thing” imaginable on site; “a bit of manual”, “a bit of inspecting”, “he moves materials”.
- his role was never 100% administration based.
- The amount of manual work Mr H would be required to was said to be “minimal” but during another part of the call, it’s said that “it is a lot of manual as well as inspecting”.
- Mr H wouldn’t have been manually lifting anything heavier than 25kg because that’s not allowed for health and safety reasons. Anything heavier than 25kg has to be lifted with a forklift.

So, whilst Mr H’s role may not have been one of a labourer or bricklayer as said by him and his wife during the calls, and his duties were largely supervisory in nature, I do think Zurich has reasonably concluded that it wasn’t accurate to describe his duties as being 100% ‘administration, clerical, managerial’. I’m satisfied that Zurich has fairly concluded that a proportion of his duties did involve manual work which should reasonably have been declared when applying for the policy.

Zurich has provided underwriting evidence that if it had been aware that Mr H’s role involved some element of manual work, and even a very small proportion of heavy lifting, it would’ve made further enquiries at the time. And once it had established the nature of his duties, it wouldn’t have offered the benefit as part of the policy. I’m persuaded by this evidence.

I have a lot of empathy for the situation Mr H finds himself in. I know Zurich’s decision has had a huge financial impact on him and his family at an already very difficult time when he was managing his health issues and not being able to work. However, for the reasons set out above, I’m satisfied that Zurich fairly and reasonably removed the benefit from the policy retrospectively and declined the claim on the basis that the benefit would never have been part of the policy for Mr H to later claim on.

Zurich’s offer to cancel the policy and pay back the premiums made for the policy Zurich offered to remove the benefit (which would’ve been offered around the time of applying for the policy if Mr H hadn’t misrepresented his duties) and refund the difference in premium (£9 per month) going back to 2013, totalling £1,242. It also offered to reduce the premium going forwards.

Alternatively, it offered to cancel the policy back to the start date and refund the premiums paid in full, in the total sum of around £69,000. Mr H accepted this option. Zurich did renege

on its offer, and said it had made a mistake by offering to do that. It had been providing cover under the policy and Mr H could've benefitted from other aspects of the policy, including life and critical illness cover, even if the benefit wouldn't have been added to the policy.

I don't think it is fair and reasonable for me to hold Zurich to its offer because the benefit was an option added to the policy which was severable from the main terms. And Zurich was still insuring the risk of a claim being made under other sections of the policy since its inception.

I'm satisfied from what I've seen that the policy, without the (optional) benefit would've still been offered if Mr H had provided the correct percentages of the duties he was undertaking around the time the policy was applied for.

Distress and inconvenience

I've seen nothing to suggest that Mr H changed his financial position based on him agreeing Zurich's offer. However, I accept that Zurich's change in position, would've been very upsetting, confusing and frustrating for Mr H. I'm also satisfied that he was put to the inconvenience of having to challenge this.

Mr H says that he accepted the option to cancel the policy and refund all premiums because he was facing significant financial difficulty and feared losing his house, so the money would've greatly assisted at the time. I've got no reason to doubt that. I accept what he says.

Zurich agreed to waive six months' worth of premiums, totalling almost £3,000, in recognition of the impact of its error. So, that resulted in Mr H not having to personally pay for the premiums (of almost £500 per month) between September and February 2025 inclusive. The policy subsequently lapsed in April 2025 as Mr H didn't pay the premiums for the policy due from March 2025 for it to continue.

In the particular circumstances of this case, I think it would be fair and reasonable for Zurich to treat the policy as having been cancelled with effect of 31 August 2024. It had offered to cancel the policy and refund all premiums paid since inception in August 2024 and Mr H agreed to this in early September 2024. So, his intention was for the policy to be cancelled then.

I think it would also be fair and reasonable for Zurich to pay Mr H the monetary value of it covering six months' worth of premiums in the sum of almost £3,000 as compensation for distress and inconvenience. I think that amount fairly reflects the impact its error of offering to cancel the policy and paying back around £69,000 in premiums had on Mr H before reneging on it. It was already a very difficult time for Mr H and that sum of money would've been invaluable to him and his family. I accept that the impact of the disappointment would've been severe.

Refunding premiums

In principle, I also think it would be fair and reasonable for Zurich to refund the difference in premiums paid for the policy with and without the benefit included, in the sum of £9 per month, since the policy was incepted.

However, I'm satisfied that Mr H only started paying for the policy from his personal bank account from July 2024 and before then, the premiums were paid by other businesses / companies run by Mr H – some of which may no longer be active. I've taken that into account when thinking about what Zurich should do to put things right (below).

Up until July 2024, the monthly premium for the policy was paid via direct debit from bank accounts belonging to different entities, which Mr H was involved with. So in addition to my direction to put things right below, once Mr H confirms which bank accounts are still active, I recommend Zurich to refund the difference in premiums between what various entities paid for the policy (to benefit Mr H) and what they would've paid for the policy (£9 per month) for the months for which those entities were responsible for paying the policy premiums. This only applies to those entities that are still active and operate active bank accounts. So, that everyone is clear, this is only a recommendation and not an intended direction as those entities are not party to this complaint.

I don't think it would be fair and reasonable for Zurich to pay any interest on the refund in the difference in premiums as it had offered this in its letter dated February 2025 and Mr H didn't respond to its correspondence. Further, the premiums are a result of the misrepresentation made by Mr H. And in the circumstances of this case, I don't think it would be fair and reasonable for interest to be paid on partial reimbursement of premiums brought about because of this misrepresentation.

Other issues

I know it took around three months for Zurich to assess the claim and make a decision. However, I'm satisfied that the information it received about Mr H's duties at the time of application (after the claim was made) did require investigation in light of the information put on the application form, including making further enquiries with Mr H. So, overall, I don't think Zurich did unfairly delay making a claims' decision.

.....

I invited both parties to provide any further information for me to consider in response to my provisional decision.

Zurich replied, accepting my provisional findings.

Mr H didn't agree. In summary he said:

- Zurich caused delays and, on occasions, had apologised for this. Zurich also didn't call him back on 19 June 2024. It also failed to get back to Mr H on other occasions.
- He signed away the policy under duress.
- He completed the occupational questionnaire in good faith. The form reflects the tasks undertaken by his workforce. It doesn't reflect his role, which was purely management and administration.
- He hadn't undertaken any manual work or heavy lifting from before and throughout the duration of the policy.
- I shouldn't consider what his wife said to Zurich as she wasn't aware of his day-to-day duties.
- He is seeking reasonable compensation for the very real distress, delay and duress used by Zurich to cancel the policy.

Mr H also provided a letter from a construction director.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

That includes all points made by Mr H in response to my provisional decision.

I'm satisfied that there's no compelling reason to depart from my provisional findings.

I acknowledge the letter received from a construction director, who has known Mr H for almost 30 years, setting out their observations of the work undertaken by Mr H. However, I don't think Zurich has unreasonably relied on the information provided by Mr H (and his wife) when concluding that he hadn't answered questions about the duties he carried out when applying for the policy.

I'd taken into account the points Mr H had raised about the occupational questionnaire when provisionally deciding this complaint. However, he and his wife also provided further information about his duties over the phone to Zurich, as referred to in my provisional decision.

Mr H was present during those calls and if Mrs H had incorrectly summarised his duties, as part of the Zurich's assessment of the claim, I would've reasonably expected Mr H to have corrected that information in real time but he didn't. I therefore think it's reasonable to conclude that he agreed with the information being said about the duties he carried out, which included him doing "every single thing" imaginable on site: "a bit of manual", "a bit of inspecting", "he moves materials". And his role never being 100% administration based and a lot of his work was "manual" as well as "inspecting".

Even if I was persuaded that Zurich did cause some unreasonable delays and didn't get back to Mr H as quickly as it should've (or at all, on some occasions), I still think the compensation I've directed Zurich to pay (almost £3,000 based on the six-months' worth of premiums it offered to waive) fairly takes into account the impact those errors had on hm and the unnecessary upset and inconvenience this would've caused (in addition to the severe distress and disappointment caused by Zurich reneging on its offer to cancel the policy in full and to refund all premiums paid for the policy since its inception).

For these reasons and for reasons set out in my provisional decision (which is set out above and forms part of this final decision), I partially uphold this complaint.

Putting things right

I direct Zurich to:

- treat the cancellation date of the policy to be 31 August 2024.
- pay the sum of £2,941.38 to Mr H as compensation for distress and inconvenience, rather than cover the premiums paid the policy for the period September 2024 to February 2025, which equalled this amount.
- refund the difference between what Mr H paid for the policy and what he would've paid for the policy (£9 per month) for the months of July and August 2024 when Mr H personally started paying for the policy.

My final decision

I partially uphold this complaint and direct Zurich Assurance Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 10 March 2026.

David Curtis-Johnson
Ombudsman